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*Steering Committee Co-Chairs for All
Plaintiffs in Consolidated Action*

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

IN RE META PIXEL TAX FILING CASES

Master File No. 3:22-cv-07557-SI

PUTATIVE CLASS ACTION

This Document Relates To:

**JOINT STATEMENT REGARDING
PROTECTIVE ORDER**

Case No. 3:22-cv-07557-SI, All Actions

Hon. Judge Virginia K. DeMarchi

1 **JOINT STATEMENT**

2 In accordance with the Court's direction at the April 20, 2023 Discovery Conference, *see*
3 Dkt. No. 216, the parties in *In re Meta Pixel Healthcare Litigation*, Case No. 22-cv-3580-WHO
4 (VKD), *In re Meta Pixel Tax Filing Cases*, Case No. 22-cv-07557-SI (VKD), and *Gershzon v.*
5 *Meta*, Case No. 3:23-cv-00083-SI (VKD) have continued to meet and confer regarding the terms
6 of a protective order to be entered in their respective cases. While the parties have made progress,
7 they have been unable to reach agreement on all issues.

8 The Tax Case Plaintiffs' proposed protective order is attached as Exhibit A, Meta's
9 proposed protective order is attached as Exhibit B, and a redline comparing the Tax Plaintiffs'
10 proposed protective order and Meta's proposed protective order is attached as Exhibit C. The
11 parties submit the following statements regarding the remaining disputes.

12 **I. PLAINTIFFS' STATEMENT**

13 In this statement and their proposed Protective Order, the Tax Case Plaintiffs'¹ address a
14 single area where the Tax Case Plaintiffs' proposal differs from those offered by the Healthcare
15 Case Plaintiffs. During further discussions with Meta over the terms of the Protective Order, it
16 has become clear that Meta may produce a significant volume of materials with redactions. Meta
17 proposes, for instance, to redact snippets of source code that appear in internal Meta
18 communications.

19 The Tax Case Plaintiffs do not object to Meta's proposals in this regard but proposed that
20 the parties should agree to the maintenance and production of Redaction Logs specifying the
21 location of such materials and the reasons for redaction. Specifically, the Tax Case Plaintiffs
22 proposed additions to Section 13.5 of the Proposed Order as follows (additions underlined):

23
24
25 ¹ This Joint Statement refers to *In re Meta Pixel Tax Filing Cases* (Case No. 3:22-cv-07557) as the
26 "Tax Case" and the plaintiffs therein as the "Tax Case Plaintiffs", to *In re Meta Pixel Healthcare*
27 *Litigation* (Case No. 3:22-cv-03580) as the "Healthcare Case" and the plaintiffs therein as the
28 "Healthcare Case Plaintiffs," and *Gershzon v. Meta Platforms, Inc.* (Case No. 3:23-cv-00083) as
the "DMV Case" and the plaintiffs therein as the "DMV Case Plaintiffs."

13.5. Privilege & Redaction Logs. The Parties' agreement regarding the requirement for, timing, format, and content of privilege logs is memorialized in a separate agreement. All materials redacted under any provision of this Protective Order shall be listed on a Redaction Log specifying by bates number the individual pages redacted and the reasons for such redactions. On request, a party must produce said Redaction Log within ten (10) business days.

These revisions are necessary for practical purposes. If Meta is to produce a significant volume of redacted documents under the Protective Order, the parties and the Court will need a ready reference showing the volume of such materials, their location, and the reasons for redaction. Further, the Tax Case Plaintiffs' suggested approach is consonant with the Federal Rules and standard practice in the federal courts. *See, e.g.,* Fed. R. Civ. P. 5.2(g) ("A filing that contains redacted information may be filed together with a reference list that identifies each item of redacted information and specifies an appropriate identifier that uniquely corresponds to each item listed."); *Mas v. Cumulus Media Inc.*, No. C-10-1396 EMC, 2010 WL 4916402, at *2 (N.D. Cal. Nov. 22, 2010) (allowing plaintiff to redact portions of documents revealing nonresponsive financial information but ordering that "[a]ny redaction should be accounted for in a redaction log."). The Tax Case Plaintiffs have confirmed that the DMV Case Plaintiffs support the addition of this redaction-log requirement and that the Healthcare Case Plaintiffs do not oppose it. For all these reasons, the Tax Case Plaintiffs request that the Court's Protective Order in this matter include a redaction-log requirement in substantially the form suggested above.

II. META'S STATEMENT

Meta incorporates its positions from the joint statement filed in the Healthcare Case concerning the protective order as if fully stated herein. As with the Rule 502(d) Clawback Order, it is Meta's position that there should be a single protective order that is entered in each of the cases that have been referred to this Court for discovery. With respect to the topic raised by the Tax Case Plaintiffs specifically, Meta responds as follows.

Section 13.5. The Tax Case Plaintiffs propose that the parties prepare redaction logs listing documents that contain redactions and the reasons for redaction. Meta's position is that the proposed redaction logs are not necessary. Creating a separate redaction log to cover Source Code

1 redactions (and any other unspecified “materials redacted under any provision” of the Protective
2 Order) will serve no practical purpose. The parties have already agreed to separately discuss
3 privilege logs, and Meta intends to utilize redactions that specify the reason for the redaction within
4 the redaction itself. So, for example, if Source Code is redacted from a document, there will be an
5 opaque box in place of the Source Code content, and there will be text within the box that reads,
6 “Redacted – Source Code” that will look like this:

7
8

Redacted – Source Code

9

10 Accordingly, the “reasons for redaction” and their quantity will already be clear to
11 Plaintiffs from the face of the documents that Meta produces, and a redaction log would be
12 duplicative and is thus unnecessary.

13 It is also not appropriate to impose the Tax Case Plaintiffs’ obligation to provide this
14 unnecessary redaction log upon “ten (10) business days” notice. The Court already provided
15 guidance to the parties on the timing for the production of privilege logs in the context of the ESI
16 protocol (April 20, 2023 Hr’g Tr. at 100:11–101:23), and the Tax Case Plaintiffs’ 10-business-day
17 requirement is both unreasonable and ignores that guidance and the court’s instruction that the
18 parties separately meet and confer regarding interim deadlines for items like privilege logs.

19 Federal Rule of Civil Procedure 5.2(g) is inapposite; that rule relates to redacted
20 information in court filings and it contemplates a completely different procedure—one in which
21 the “reference list” actually contains the confidential information at issue along with appropriate
22 “identifiers” to use in place of the confidential information in public court filings, and the reference
23 list itself is confidential and “must be filed under seal.” Here, by contrast, the redactions will be
24 made in documents produced in discovery—not public court filings—and the Tax Case Plaintiffs
25 will be able to view the underlying Source Code content in the Source Code review room to the
26 extent it is relevant and upon reasonable request from the Tax Case Plaintiffs (as discussed in the
27

1 joint statement filed in the Healthcare Case). Accordingly, there is no need for the Tax Case
2 Plaintiffs' proposed language above regarding redaction logs.

3 Dated: May 5, 2023

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